

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No.: 15-cr-00950-BEN
)
Plaintiff,) FINDINGS AND RECOMMENDATION
) OF THE MAGISTRATE JUDGE
v.) UPON A PLEA OF GUILTY
)
Roberto Gallegos-Lechuga)
)
(6),)
)
Defendant.

Upon Defendant's request to enter a guilty plea to Count 1 of the Third Superseding Indictment pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District Judge, with the consents of the Defendant, counsel for the Defendant, and counsel for the United States.

Thereafter, the matter came on for a hearing on Defendant's guilty plea, in full compliance with Rule

11, Federal Rules of Criminal Procedure, before the Magistrate Judge, in open court and on the record.

In consideration of that hearing and the allocution made by the Defendant under oath on the record and in the presence of counsel, and the remarks of the Assistant United States Attorney,

I make the following FINDINGS - that the Defendant understands:

1. The government's right, in a prosecution for perjury or false statement, to use against the defendant any statement that the defendant gives under oath;
2. The right to persist in a plea of "not guilty";
3. The right to a speedy and public trial;
4. The right to trial by jury, or the ability to waive that right and have a judge try the case without a jury;
5. The right to be represented by counsel-and if necessary to have the court appoint counsel-at trial and at every other stage of the proceeding;
6. The right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and

1 present evidence, and to compel the attendance
2 of witnesses;

3 7. The defendant's waiver of these trial rights if
4 the court accepts a guilty plea or nolo
5 contendere;

6
7 8. The nature of each charge to which the
8 defendant is pleading;

9 9. Any maximum possible penalty, including
10 imprisonment, fine, and term of supervised
11 release;

12 10. Any applicable mandatory minimum penalty;

13 11. Any applicable forfeiture;

14 12. The court's authority to order restitution;

15 13. The court's obligation to impose a special
16 assessment;

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18 14. In determining a sentence, the court's
19 obligation to calculate the applicable
20 sentencing guideline range and to consider that
21 range, possible departures under the Sentencing
22 Guidelines, and other sentencing factors under
23 18 U.S.C § 3553(a);

24
25 15. The term of any plea agreement and any
26 provision in that agreement that waives the
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1 right to appeal or to collaterally attack the
2 conviction and sentence; and

3 16. That, if convicted, a defendant who is not a
4 United States citizen may be removed from the
5 United States, denied citizenship, and denied
6 admission to the United States in the future.
7

8 **I further find that:**

9 17. The defendant is competent to enter a plea;

10 18. The defendant's guilty plea is made knowingly
11 and voluntarily, and did not result from force,
12 threats or promises (other than those made in a
13 plea agreement); and
14

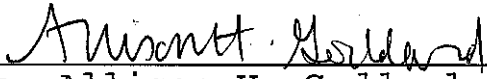
15 19. There is a factual basis for Defendant's plea.

16 **I therefore RECOMMEND that the District Judge**
17 **accept the Defendant's guilty plea to Count 1 of the**
18 **Third Superseding Indictment.**
19

20 The sentencing hearing will be before United States
21 **District Judge Roger T. Benitez, on 10/13/2021 at 2:00**
22 **PM.** The court excludes time from 7/14/2021 through
23 10/13/2021 pursuant to 18 USC § 3161(h)(1)(G) on the
24 ground that the District Judge will be considering the
25 proposed plea agreement.
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1 Objections to these Findings and Recommendations
2 are waived by the parties if not made within 14 days of
3 this order. If the parties waive the preparation of the
4 Presentence Report, objections are due within three
5 days of this order.
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8 Dated: 7/14/2021
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10 **Hon.** Allison H. Goddard
11 United States Magistrate
12 Judge
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14 Copies to:
15 Judge Roger T. Benitez
16 Assistant United States Attorney
17 Counsel for Defendant
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